



# ILLINOIS COMMERCE COMMISSION

June 24, 2002

County of Will, Illinois; Department of Highways,  
Petitioner

Vs.

Burlington Northern and Santa Fe Railway Company and State of  
Illinois Department of Transportation,  
Respondents

T02-0002

Petition for an Order of the Illinois Commerce Commission Authorizing  
the establishment of a separation of grades and construction of a  
bridge carrying Arsenal Road, a Will County highway, Will County,  
Illinois, over the tracks of said Railway Company, apportioning costs  
thereof and directing an appropriate portion thereof to be borne by the  
Grade Crossing Protection Fund.

TO ALL PARTIES OF RECORD:

## ADMINISTRATIVE LAW JUDGE'S PROPOSED INTERIM ORDER

Attached is a copy of the Administrative Law Judge's Proposed Order in the  
above referenced matter.

The Administrative Law Judge's Proposed Order is being sent to you pursuant to  
the Commission's Rules of Practice (83 Ill. Adm. Code 200). Your case is a "contested  
case" or "licensing case" as defined in Section 200.40 of the Rules and, therefore, the  
Hearing examiner is required under Section 200.820 to issue a Proposed Order to all  
parties.

Under Section 200.830 of the Rules, exceptions to the Proposed Order and  
replies thereto may be filed by the parties within the time periods established by the  
rules of such other times as fixed by the hearing examiner. The times for filing  
exceptions and replies are fixed at ten days and five days, respectively.

Entered:

June 24, 2002  
*June B. Tate*  
Administrative Law Judge  
Review & Examination Program

JBT:rsc

Railroad Staff: Mr. Humphries

STATE OF ILLINOIS

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**PROPOSED INTERIM ORDER**

By the Commission:

On January 14, 2002, the County of Will, Illinois ("Petitioner") filed a verified petition with the Illinois Commerce Commission ("Commission") in the above-captioned matter seeking an order authorizing the construction of an overhead bridge carrying the tracks of the Burlington Northern and Santa Fe Railway Company ("the Railway" or "Respondent") over Arsenal Road, a part of the Will County Highway System. Also named as Respondent is the State of Illinois, Department of Transportation (IDOT).

Pursuant to notice as required by law and the rules and regulations of the Commission, the matter came on for hearing before a duly authorized Administrative Law Judge of the Commission on June 13, 2002 at the Commission's offices in Chicago, Illinois. Appearances were entered by counsel for Will County, Mary M. Tatroe; for the Railway, Michael L. Sazdanoff; and for the Commission, Special Assistant Attorney General ("SAAG"), Diana G. Collins. Also appearing was Jeff Harpring for IDOT and Henry Humphries and Charles Broers of the Commission's Railroad Section, Transportation Division. At the conclusion of a full and public hearing on the aforementioned date, the record was marked "Heard and Taken."

Testimony was offered by James Ford, CenterPoint Intermodal Center vice president of land and rail development; Martin Ross, civil engineer at TranSystem Corporation; and Cheryl Townlian, manager of public projects in Illinois and Wisconsin for the Railway.

Arsenal Road, part of the Will County Highway System, is to be improved by widening, resurfacing, and the overpassing of vehicular traffic at its intersection with the tracks of the Railway. Existing railroad traffic at this crossing is of moderate volume, comprised of freight trains traveling at both slow and high speeds. The Deer Run Intermodal Facility, now under construction will greatly increase the frequency of rail traffic at this crossing as traffic proceeds from the Railway's double main line to the intermodal facility. A siding track is to be constructed. In addition, the Deer Run Industrial Park, now under construction, will generate large volumes of truck and automobile traffic on Arsenal Road. The proposed grade separation will eliminate the frequent disruptions to traffic flow caused by railroad operations and provide for a more sufficient highway system.

There is an Arsenal Road interchange at Interstate Highway 55, which proceeds eastward to Illinois Highway 53. The overpass will be in the interest of the safety and convenience of the statewide traveling public.

Mr. Ross' firm, TranSystem Corporation, has been responsible for the overall planning and design of the overpass. The posted design speed is forty-five miles per hour. The projected average daily traffic ("ADT") of 6,000 to 30,000 vehicles and increased rail traffic will make the existing crossing inadequate. Bidding and letting are scheduled for April, 2003. Construction will take approximately one year, to April, 2004.

The length of the bridge is to be 565 feet long from abutment to abutment and 2,000 feet long from touchdown to touchdown. The bridge will be four lanes, with concrete deck, no sidewalks, and no lighting. Planning has not advanced to the point of a decision as to whether the bridge will have three spans or five. Final design plans are due February, 2003.

The timetable speed of the freight train traffic is seventy miles per hour ("mph"). There are no commuter trains and other passenger trains will use the Railway's tracks only as back-up.

Total cost of the project is estimated at \$7,750,000. The Commission is of the opinion that at this time, it should fund its share of the cost of preliminary engineering. Additional funding is to be provided by IDOT, the State of Illinois Economic Development Program, and Will County.

The Commission, having given due consideration to the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) the County of Will is a political subdivision of the State of Illinois;
- (2) Burlington Northern and Santa Fe Railway, a Delaware corporation, is a corporation engaged in the transportation of property and/or

passengers for-hire in the State of Illinois and as such, is a "rail carrier" within the meaning of Chapter 625 ILCS 5/18c-1104(30) of the Illinois Commercial Transportation Law ("Law"), as amended;

- (3) the Commission has jurisdiction of the subject matter and the parties herein;
- (4) matters contained in the prefatory portion of this order are adopted as findings of fact;
- (5) Petitioner proposes a grade separation of the crossing of Arsenal Road at the tracks of the Respondent Railway; the construction of the bridge is necessary to preserve the safety of the statewide traveling public and for the public convenience and necessity;
- (6) costs have not been finally determined; however, the Grade Crossing Protection Fund ("Fund") has committed to sixty percent (60%) of the cost for preliminary engineering;
- (7) the Preliminary project cost estimate, entered into evidence in this proceeding as Petitioner's Exhibit 6, provides \$400,000 for preliminary and design engineering; therefore, an amount not to exceed \$240,000 is allocated for this purpose;
- (8) Petitioner should file supplemental petitions for funds for the subsequent phases of the project after completion of the engineering, land acquisition, and railroad force account costs of the phases of the project;
- (9) the supplemental petitions should contain revised, updated estimates if appropriate;
- (10) permission should be granted for the construction of a bridge carrying the tracks of the Railway over Arsenal Road in Will County, Illinois.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that permission be, and it is hereby granted to the County of Will, Illinois to construct a bridge carrying the tracks of the Burlington Northern and Santa Fe Railway Company over Arsenal Road in Will County, Illinois in the manner to be indicated on final plans and submitted to the Commission for its approval.

IT IS FURTHER ORDERED that Petitioner be, and is hereby required to file supplemental petitions for permission to proceed with further phases of the construction project upon completion of engineering, land acquisition, and railroad force account cost.

IT IS FURTHER ORDERED that revised estimates of the total cost of the project be included in the supplemental petitions if appropriate with an indication that the cost has been revised upward or downward and an indication of the allocation of the costs to the parties hereto.

IT IS FURTHER ORDERED that future maintenance of the bridge shall be the responsibility of the County of Will, Illinois.

IT IS FURTHER ORDERED that the work herein approved shall be completed on or about February 28, 2003.

IT IS FURTHER ORDERED that all bills for expenditures authorized to be reimbursed by the Grade Crossing Protection Fund shall be submitted to the Director of Processing, Transportation Division of the Commission and that authorization for reimbursement from the Grade Crossing Protection Fund shall expire and the Department shall de-obligate all residual monies from the Grade Crossing Protection Fund eighteen months after the completion date specified in this Order.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any supplemental order or orders as it may deem necessary.

By Order of the Commission this day of , 2002.

Chairman